

THIRTIETH DAY,

SENATE CHAMBER,
AUSTIN, TEXAS, February 17, 1885. }

The Senate met pursuant to adjournment.
Lieutenant-Governor Gibbs in the chair.
Roll called.
Quorum present.
Prayer by the Chaplain, Dr. Smoot.
On motion of Senator Randolph,
The reading of the journal of yesterday was dispensed with, and the same adopted.

PETITIONS AND MEMORIALS.

By Senator Kleberg:
Memorial of the New York, Texas and Mexican Railway Company, asking the privilege of bringing suit in the district court of Travis county against the State of Texas, for the value of certain land certificates due said railway company by reason of its having built and equipped a certain number of miles of its railway previous to the repeal of "An act granting land certificates to railways constructed in this State."

Referred to Judiciary Committee No. 1.

REPORTS OF STANDING COMMITTEES.

By Senator Davis:

COMMITTEE ROOM,
AUSTIN, February 16, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 198, entitled "An act to amend article 339, chapter 4, of the Penal Code," have carefully examined the same, and instruct me to report the accompanying substitute therefor, and recommend that such substitute do pass.

All of which is respectfully submitted.

DAVIS, Chairman.

COMMITTEE SUBSTITUTE SENATE BILL NO. 198.

An act to punish the keeping of a house or place as a resort for the purpose of smoking opium or any other intoxicant.

COMMITTEE ROOM,
AUSTIN, February 16, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 214, entitled "An act to amend chapter 13, title 22, of the Penal Code of the State of Texas, by adding thereto article 765a," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass. The bill provides for the punishment of persons buying or selling hides under certain circumstances, which, in the opinion of the committee, is already sufficiently provided for by law.

All of which is respectfully submitted.

DAVIS, Chairman.

COMMITTEE ROOM,
AUSTIN, February 16, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 213, entitled "An act to amend article 765 of the Penal Code of the State of Texas," have carefully examined the same, and instruct me to report it back with the recommendation that it do not pass. Under the present law cattle skinning is punished as a misdemeanor, and this bill seeks to go change the law as to punish the offense as a felony.

All of which is respectfully submitted.

DAVIS, Chairman.

COMMITTEE ROOM,
AUSTIN, February 16, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 204, entitled "An act to provide in what cases sheriffs shall be entitled to compensation," have carefully examined the same, and instruct me to report the accompanying substitute therefor, and recommend that such substitute do pass.

All of which is respectfully submitted.

DAVIS, Chairman.

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 204.

An act to prohibit sheriffs from charging fees in certain cases.

COMMITTEE ROOM,
AUSTIN, February 16, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 203, entitled "An act to amend article 122 of the Penal Code of the State of Texas," have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass.

All of which is respectfully submitted.

DAVIS, Chairman.

COMMITTEE ROOM,
AUSTIN, February 16, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 199, entitled "An act to regulate the practice of dentistry in the State of Texas," have carefully examined the same, and instruct me to report the same back with the recommendation that it be referred to the Committee on Public Health.

All of which is respectfully submitted.

DAVIS, Chairman.

By Senator Houston of Bexar:

COMMITTEE ROOM,
AUSTIN, February 12, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred House bill No. 49, entitled "An act to amend article 4686, title 95, chapter 2 of the Revised Civil Statutes," have carefully examined the same and a majority of your committee instruct me to report the same back to the Senate with the recommendation that it be referred to the Committee on Internal Improvements.

All of which is respectfully submitted.

HOUSTON of Bexar, Chairman.

By Senator Bell:

COMMITTEE ROOM,
AUSTIN, February 16, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 193, being "An act to provide for the correction and revision of the abstracts of located, titled and patented lands in Texas," and find the same correctly engrossed.

All of which is respectfully submitted.

BELL, Chairman.

By Senator Glasscock:

COMMITTEE ROOM,
AUSTIN, February 17, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Public Buildings and Grounds, to whom was referred Senate bill No. 205, entitled "An act defining who are entitled to be buried in the State cemetery, and defining the powers and duties of the Superintendent of Public Grounds in relation thereto," have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass, with the following amendments:

1. Strike out in section 1, beginning at the word "and" in next to the last line of said section the following words: "And the families of all the above named persons."
2. Insert after the word "Texas," in next to last line of sec-

tion 1, the following words: "And all officers in command of the State troops."

All of which is respectfully submitted.

GLASSCOCK, Chairman.

By Senator Stinson:

COMMITTEE ROOM,
AUSTIN, February 16, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 164, entitled "An act to amend article 378, chapter 6, title 11 of the Penal Code of the State of Texas, and to add article 378a to chapter 6, title 11 of the Penal Code of the State of Texas," have carefully examined the same, and instruct me to report it back with the recommendation that it do pass.

All of which is respectfully submitted.

STINSON, for Committee.

COMMITTEE ROOM,
AUSTIN, February 16, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Private Land Claims, to whom was referred Senate bill No. 196, entitled "An act for the relief of Z. C. Collier, Thomas Collier and William Ramer," have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass.

All of which is respectfully submitted.

STINSON, Chairman.

By Senator Peacock.

COMMITTEE ROOM,
AUSTIN, February 17, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Public Lands, to whom was referred Senate bill No. 217, entitled "An act to repeal an act granting a land certificate of 1280 acres to the surviving soldiers of the Texas Revolution," and to repeal an act approved April 26, 1879," etc., have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass.

All of which is respectfully submitted.

PEACOCK, Chairman.

The President gave notice of signing substitute House bill No. 3, "An act making appropriations for deficiencies in the appropriations heretofore made for payment of expenses in support of the government, from March 1, 1884, to February 28, 1885, being for payment of claims registered in the Comptroller's office, in accordance with law, and for outstanding claims not registered, and other deficiencies;" and

House bill No. 15, "An act to amend sections 4 and 16 of an act entitled 'an act for the protection of the wool growing interests of the State of Texas,' approved April 4, 1883."

BILLS AND RESOLUTIONS.

Senator Houston of Bexar offered the following resolution:

Resolved, That the Commissioner of Insurance, Statistics and History be requested to furnish the Senate, as soon as practicable, a statement covering the following points:

1. The name and place of domicile of all fire insurance companies doing business in Texas since the first day of January, 1885.
2. The amount of risks written since that time by each of said companies.
3. The amount of premiums received by each of said companies since that time.
4. The amount of losses paid out by each of said companies since that time.
5. The excess of premiums received over losses paid out by all of said companies.
6. The amount of capital stock of each of said companies.

7. The names of all fire insurance companies now authorized to do business in this State.

8. The names of all such insurance companies, if any, who have failed to comply with the insurance laws of this State.

9. The names of all such companies who have failed to make a report on January 1, 1885, as required by articles 2965 and 2966 of the Revised Statutes of this State.

10. The names of all companies who have made but partial reports since January 1, 1875.

Adopted.

The following message was received from the House:

HOUSE OF REPRESENTATIVES,
AUSTIN, February 17, 1885.

Hon. Barnett Gibbs, President of the Senate:

I am instructed by the House to inform your honorable body of the appointment of the following conference committees by the Speaker of the House: Substitute House bills Nos. 13, 61, 64, 104 and 161, Messrs. Foster of Grayson, Hamilton and Rountree.

Substitute House bill No. 48, Messrs. Robinson of Jack, Steele and Combes of Dallas.

Also, to inform your honorable body that the House has moved a reconsideration of its action of the sixteenth instant, concerning Senate bill No. 79, and requests the Senate to return to the House said bill, in order that the House may conclude its deliberations and action upon the same.

A. D. SADLER,

Chief Clerk House of Representatives.

By leave.

Senator Jones sent up the following report for the special joint committee to visit the State penitentiaries:

COMMITTEE ROOM,
AUSTIN, February 17, 1885.

Hon. L. L. Foster, Speaker of the House of Representatives, and Hon. Barnett Gibbs, President of the Senate:

Your joint committee of the Senate and House, appointed by House concurrent resolution, dated January 25, 1885, to investigate the management, operation and condition of the Texas State penitentiaries, and to make such suggestions as to their future management as they may deem necessary, beg leave to report as follows:

That a quorum of said committee met in the parlors of the Gibbs House in Huntsville on the tenth day of February, and on motion of the Hon. Harry Haynes, the Hon. J. W. Jones was chosen chairman of the committee; whereupon it was resolved to at once make a careful inspection and examination of the Huntsville penitentiary.

The committee first proceeded to examine the cells, which they found in good, clean and safe condition; many of the convicts displaying marked good taste in the tidy appearance and arrangement of their cells.

We found that there is a total of 2700 convicts at present, distributed as follows: 640 at Huntsville, 465 at Rusk, 182 on railroad trains, and the balance on farms, variously distributed. The cell capacity of the Huntsville penitentiary is about 650 convicts.

HOSPITAL AND PATIENTS.

In the hospital there were but few patients, all of whom received careful medical attention.

SHOPS.

Visiting the machine shops, we found most of the convicts usefully employed in the manufacture of wagons, furniture and a supply of clothing, shoes and harness necessary for the use of the penitentiary. We also found a large stock of material and manufactured goods on hand, consisting of wagons and furniture ready for market.

STILL BROTHERS.

Messrs. Still Brothers have under contract thirty-five convicts, who are employed in the manufacture of saddle-trees, girths, etc.

WIGGINS & SIMPSON.

This firm has contracted for seventy-five convicts for a period of five years, at the rate of sixty cents per day each. They are turning out from their shops excellent work.

CONTRACT SYSTEM.

It appears to the committee that the contract system works most excellently, and the character of the work turned out of the shops of Wiggins & Simpson and Still Brothers appears superior to that turned out on State account.

THE WYNNE FARM.

Your committee visited the State farm near Huntsville, and found the same to be in excellent condition. The farm consists of 1900 acres of land, 1100 of which are in a high state of cultivation. The truck patches consist of turnips, onions and other fall vegetables, which we found to be abundant. The convicts present a healthy appearance and appear to be as well satisfied as men under the circumstances could be expected; and there is abundance of corn to run the farm for the ensuing year, and fodder and other forage. The teams, consisting of mules and oxen, were also in good condition, and their appearance was indicative of unusual care. The farm is run on State account, and not only pays expenses, but the books of Capt. Smythers, the manager, show a balance in favor of the State. We found that the farm supplies the prison at Huntsville with the vegetables—turnips, onions, potatoes, etc.—which are ample for the prison necessities.

FOOD AND TREATMENT.

We found the food at the Huntsville penitentiary abundant and wholesome, and the treatment of the convicts to be humane and the management efficient, and the convicts under good discipline. The convicts were visited by the committee individually and in a body, and no complaints as to treatment for amount of food were made. The water supply is abundant, affording every protection against fire.

We found that the present chaplain has rendered efficient service, and that the prison has a good chapel for religious services, and a small but well selected library, which we think should be enlarged.

In addition, we would add that we found the buildings safe, sufficient and well ordered, and the management conducted in accordance with the most approved methods of prison discipline.

RUSK PENITENTIARY.

At Rusk we found the buildings safe, clean and well ordered, and of a cell capacity of one thousand convicts. The water facilities are good, affording good protection in case of fire.

SHOPS.

The shops have been worked on State account, but at present are doing but very little. The reason given by the management is, that there is no market for manufactured articles, and a lack of seasoned wagon and furniture material.

The hospital, dining room, laundry, and chapel are all in very good condition.

Since the expiration of the Comer & Fairris contract, we find that the furnace in connection with the Rusk penitentiary has not been operated. We find the machinery ample for the manufacture of pig iron, and a large supply of charcoal on hand. The machinery was purchased at a cost of \$65,000, and is of a superior quality.

We found that the shops were virtually idle.

TREATMENT.

The committee visited the convicts at their cells, and found various complaints as to the treatment of the convicts. In many instances the punishment was severe, not to say cruel, and the discipline extremely rigid. Where whipping, as a punishment, has been administered, the statements of the convicts showed that the number of lashes ranged all the way from forty to one hundred and forty. This punishment was administered for attempts on the part of convicts to escape, and for other violations of the rules and regulations of the penitentiary. A portion of your committee examined the backs of convicts alleged to have been whipped, and saw scars indicating that their flesh had been lacerated and the skin broken.

In this connection your committee would state that some time during the fall of 1884, a convict named Goodall was killed by a guard under the following circumstances: The convict had been commanded to submit to a whipping; while being whipped he broke away from the guard and went on to what they call the run-around, in the third story of the cells. He was commanded to come down and submit to a whipping; he

protested that he would not come down because they would kill him. The under keeper, named Hughes, told him that he would conquer his temper with his life or body; at this time a shot was fired from an upstairs window, from the effect of which the convict Goodall died in a day or two. An inquest was held over his body, and a guard named Gayton testified at the inquest that he shot him. That guard is still in the employ of the penitentiary as a guard. There were two witnesses who stated to the committee that after the shooting they went to the spot where Goodall fell and found a chair round, a razor and a knife. The excuse for shooting him was, that he was going to escape through the top of the building. From examination of the building and the enclosure around it, the committee are satisfied that he could not have finally escaped from the penitentiary; and your committee are of the opinion that such killing was wanton and cruel, and manifested a disregard of human life, and it is our opinion that the conduct of the guard who did the killing, and such officials as were near there and privy to the killing, should be subjected to a close investigation.

FOOD.

Numbers of convicts volunteered to make complaints to members of the committee in regard to the food; and the complaints were so serious that the committee investigated individually, and took testimony from numbers of convicts. The quantity seems to have been sufficient, but the quality, by the concurrent testimony of all convicts examined, or by the statements of those who voluntarily came before the committee, was very bad. The bread was made with cold water, and was frequently cold, mouldy and clammy before served to the convicts. The meats consist of beef and bacon; the bacon was frequently inferior, rancid and spoilt. The beef was sometimes scant in amount and badly cooked; in fact, all the food appears to be poorly cooked, and this results not from any defect in the kitchen arrangements, but from the negligence of the steward. We found that the physician had frequently condemned food as being unsound and unwholesome; but we were unable to learn that any particular amount of food condemned by the physician was ever cooked by the steward. The steward, against whom the complaints were lodged, is still retained in the position, and we suggest that steps should be taken to have him discharged. The committee are satisfied that the complaints in the main are well founded. The water is good, and the supply ample.

The chapel for the church and Sunday school services is neat and comfortable. The chaplain is efficient and diligent in the discharge of his duty. The library, though small, is well selected.

The supply of medicines seems to be sufficient, and the department is well managed under the direction of Dr. Jameson, assisted by Dr. Walton, a convict.

The superintendent, assistant superintendents and the financial agent extended to the committee every courtesy and all facilities for conducting their investigation.

FARMING ON SHARES.

We find that during the last few months contracts have been made with some six or eight parties in the counties of Robertson and Grimes for convicts to cultivate crops on shares. The number of convicts ranges from twenty-five to something over one hundred to the several parties. The terms of these contracts are, in substance, that the State is to furnish the convicts, guard, feed and clothe them, and the farmer to furnish land, teams and implements, and the crops to be equally divided between the farmers and the State—the farmers in some instances to pay a small bonus to the State in money.

The committee learned of no bad treatment of convicts, but on the contrary, they seemed to be well treated, more healthy and better satisfied on the farms than in the walls. The reason for these contracts given by the management is, that the convicts were idle in the walls, the railroads having turned in nearly all they had contracted for, and it was thought by them to be the best thing to make some arrangements by which the convicts could be utilized in making enough, at least, for their support; and your committee is of the opinion that they were disposed of to the best advantage, the fact being that the penitentiaries are only capable of containing 1600 convicts, while there are 2700 on hand, and the industries operated in the walls are so limited as to require the services of only a limited number.

COMER & FAIRRIS CONTRACT.

This contract was made by the Penitentiary Board with

Comer & Fairris in July, 1883, and was to go into effect in January, 1884. In substance said contract was about as follows:

1. The State was to furnish to Comer & Fairris the labor of one thousand convicts for a term of ten years, to be used in operating the Rusk penitentiary, and the industries connected therewith, the convicts to be divided into three classes.

2. The State was to furnish and pay officers and guards for said convicts, clothe the convicts, and, in short, to furnish everything incidental to the management and keeping of the convicts.

3. The contractors were to have the use of all shop buildings, machinery and tools, the blast furnaces, ore privileges and wood on the State lands, for fuel and steam purposes, the spur railroad, and all other property belonging to the State, not reserved.

4. The State reserved administration and all buildings, and such tools, wagons, teams and other property as might be needed for the use of the State.

5. The contractors were to pay monthly for the labor, at the rate of one hundred dollars per annum for the first class, seventy-five dollars for the second class, and fifty dollars for the third class hands.

6. The contractors were to feed the convicts and guards, to keep the buildings and other property turned over to them in good repair; and

7. The State was to furnish, for ninety days after the execution of the contract, such surplus hands as might be at Rusk free of charge.

8. To get material to make tools, etc., and to operate the furnace in the penitentiary.

9. The contractors were to work outside the prison walls only such number of convicts as might be necessary to cut wood, dig ore, burn coal, get lime rock, saw lumber and make provisions and forage for the necessary operation of the furnace in the penitentiary.

Under this contract Comer & Fairris took charge of and began operations at the Rusk penitentiary and furnace on the first day of January, 1884. They paid their monthly labor accounts for three months, that is to say, for January, February and March, these accounts becoming due on the tenth day of each subsequent month from the beginning of the contract.

The labor accounts collected from Comer & Fairris for the three months named above amounted to \$3,975.48. When the fourth installment of labor bills became due on the tenth day of April, 1884, Comer & Fairris applied to the board for an extension. The result was that the Penitentiary Board executed a supplemental contract with Comer & Fairris, which provided in substance that the board would furnish provisions for the support of the convicts up to the tenth day of September, 1884, and would give Comer & Fairris that time in which to pay their labor bills.

On the fifth day of September, 1884, Comer & Fairris made an offer to surrender their contract; this was acceded to by the Penitentiary Board. At this time the account of Comer & Fairris with the State stood about as follows: \$8881 due the State for provisions furnished for the time mentioned in the supplemental contract, to-wit, four months, and labor bills which in the aggregate made their indebtedness something over \$26,000, which amount they proposed to settle by turning over to the Penitentiary Board property they had come in possession of since their connection with the Rusk penitentiary under their contract. This property consisted of wood, iron ore and wagon material and some unfinished wagons on hand in their wagon factory, charcoal, etc. The appraisers failing to agree as to the value of a portion of the property that Comer & Fairris proposed to turn over to the State in settlement of their debt, an umpire was agreed upon to pass upon the value of the remainder. The result of the appraisement and valuation was that the claim of Comer & Fairris against the State exceeded the amount due and owing from Comer & Fairris in the sum of \$3100, which amount the State paid to them in cash, which, together with the advances and labor bills heretofore mentioned, made the sum of about \$31,000, for which the State received about four thousand cords of wood, sixty-five thousand bushels of charcoal, a lot of unfinished wagons, and a considerable lot of new material in the shops of the Rusk penitentiary, and \$1130 in permanent improvements. The State paid in cash an additional sum of about \$1700 for lumber at and about the time of the settlement, which was paid for the purpose of procuring a final settlement with Comer & Fairris, they saying that they would not make a settlement unless the State purchased the lumber.

The figures submitted by the committee are not exact, but are only intended to give substantial results.

The property taken is of little value unless appropriations are made to utilize it in operating the penitentiary and furnace at Rusk, the same having been idle since the surrender by Comer & Fairris. The superintendent and financial agent state in their report that it will require from \$50,000 to \$70,000 to put it in successful operation.

The committee in this connection will state that much of the property accepted from Comer & Fairris in satisfaction of their claim was taken at a price in excess of its real value, and unless operations are resumed at the furnace and the penitentiary, the property will be a virtual loss to the State.

It is obvious to the committee that the State was placed at a great disadvantage in effecting the settlement with Comer & Fairris, for the reason that the sureties on the bond of Comer & Fairris for the faithful performance of their contract were all non-residents of the State of Texas, and in case such settlement had not been made, and suit had been brought, would have subjected the State to a long and tedious litigation, attended with great expense. And the committee deprecate most seriously the practice of taking sureties on bonds for faithful performance of contracts with the State in operating its convicts who are non-residents of the State, when it can be avoided.

RECOMMENDATIONS AND SUGGESTIONS.

1. A majority of your committee recommend that such appropriation, to be based upon the reports of the financial agent and superintendent of the penitentiaries, as may be necessary to place the iron industry at Rusk upon a basis that will be self sustaining, be made.

2. We recommend the making of contracts to carry on the various industries similar to those now in force at Huntsville, where it can be done.

3. We recommend that such appropriations be made for the maintenance of the penitentiaries at Rusk and Huntsville as may be necessary.

4. We recommend the purchase of a sufficient quantity of agricultural land, in a body, for the employment of all such convicts as cannot be furnished employment in the walls. This recommendation of the committee is based upon the following reason: There being insufficient room in the penitentiary walls and few facilities for the employment of convicts, the Penitentiary Board have been compelled to make farm contracts, by which the State has gone into farming on the shares. There are a number of such contracts in the counties of Robertson and Grimes and other counties. This policy scatters the convicts at various points, brings them in contact with the people and disorganizes labor, causes dissatisfaction in communities where they are located, demoralizes society and increases the expense of guard and sergeant hire, and increases the opportunity for escapes; whereas if the State owned a large body of land, sufficient to furnish employment to all of the surplus convicts outside of the walls, they could keep them in one place and in one enclosure, isolated from the public and securely guarded at less expense; at the same time the convicts will be self-supporting, for it would scarcely ever occur that the farm would not produce sufficient to feed and clothe them.

5. We recommend that the Penitentiary Board be abolished and that the management of the penitentiaries be placed exclusively in the hands of the superintendent, who shall be subject to removal by the Governor for cause; and that the financial agent be retained as now provided by law.

6. We recommend that a commission, consisting of three citizens well informed on prison management, be appointed by the Governor, to visit the various prisons in the United States to investigate their management and collect information as to their treatment and employment in various industries of their convicts, and to report the result of such investigation to the next Legislature, with such suggestions as they may deem proper, in order that the State may, from the best sources of information obtainable, adopt a policy for the permanent management of the State prisons.

7. We recommend that in the event the contract for building the new State Capitol is so modified as to substitute granite for limestone, the penitentiary management be authorized to contract for as many convicts as possible for the quarrying and handling of granite to be used in the new Capitol.

8. A majority of your committee recommend a separate superintendent and financial agent for each of the penitentiaries at Rusk and Huntsville, and that the management be kept separate and distinct. The reason for this recommendation by a majority of your committee is based upon the following

fact: that the management will be much more efficient, and that the State will be enabled to dispense with the services of one inspector and two assistant superintendents, and that it would insure to the better treatment of the convicts by bringing the officers in more direct supervision over them.

9 We would also recommend that executive clemency be extended to a certain number of lifetime convicts every year, to be granted after a certain period of good behavior, for the reason that this would be an incentive for obedience and good behavior that no lifetime convict would fail to improve.

10. Notwithstanding the recommendation of the committee as to the purchase of a farm and the employment thereon of convicts, the committee do not wish to be understood as favoring such a system as a permanent policy for the State; for it is the opinion of the committee that it is the duty of the State to make provision for the confinement of its convicts within penitentiary walls, so that the judgment and sentence of the court trying them can be carried out; the suggestion of the committee for the purchase of a farm being deemed by them the only expedient now available for the keeping of convicts and their support with as little expense to the State as possible till sufficient prison room can be provided.

All of which is respectfully submitted.

JONES,
KLEBERG,
KILGORE,
Senate Committee.
HAYNES,
KIMBROUGH,
HENDRY,
MOORE of Washington,
House Committee.

We respectfully dissent from the recommendation of the majority providing separate management and separate superintendents.

We respectfully dissent from the recommendation of the majority making an appropriation for the Rusk furnace.

JONES.
HAYNES.

The following minority report was also sent up:

COMMITTEE ROOM,
AUSTIN, February 17, 1885.

Hon. L. L. Foster, Speaker of the House of Representatives:

The undersigned, a minority of your joint committee appointed to visit and investigate the management of the State penitentiaries, being unable to agree with the majority in their recommendation for large appropriations for the operation of the Rusk furnace, and for separate management of each of the penitentiaries, beg leave to submit the following: As to the "Rusk furnace," we do not believe that it can ever be placed on a paying basis, or ever made self-sustaining, and it would be a waste of money to attempt to make it so for the following reasons:

1. The ore is very inferior in quality. There is no bituminous coal anywhere in that region of country, and consequently the only heat-producing material being charcoal. In order to procure this charcoal, timbered land would have to be purchased by the State, and parties having such land for sale, seeing the State's necessities, would demand exorbitant prices for the same, which land when denuded of the wood would be utterly valueless for any purpose whatever.

In addition to the foregoing, it is submitted that in the event of purchase, there would be a further expense incident thereto in converting the wood into charcoal and transporting it to the furnace.

2. The means and facilities for transportation are very limited, there being but one railroad, and that a narrow gauge, the only connection between the town of Rusk and the rest of the State. This being true, the expense of transportation of material to or manufactured articles from the penitentiary would be so great as to overbalance all profits that might otherwise ensue on the production or manufacture of articles for market. Limestone is essential to the production of pig iron. There is no limestone within a hundred miles of Rusk, the seat of the penitentiary. The importation of this article is very expensive.

3. The water supply is very deficient, it being necessary to construct huge dams at great expense in order to husband anything like a sufficient quantity.

4. The condition of the furnace at present is such as to render it unavailable for even the production of "pig iron," it being in a very dilapidated state. And were this not the case, the quality of the pig iron is of such an inferior grade that were it utilized in producing or manufacturing commercial wares or merchandise, they could not compete with the productions of older manufactories. The Superintendent and Financial Agent agree that in order to put the furnace in such condition as to produce articles of traffic from the pig iron, it would take an appropriation of sixty-five to ninety thousand dollars. We are therefore of the opinion that the State would save money by allowing it to remain idle, and we recommend that the machinery be sold and the proceeds utilized for penitentiary purposes.

JONES, of Senate Committee.

HARRY HAYNES, of House Committee.

As to the separate management and separate superintendents for each of the penitentiaries we submit:

That in our opinion it is best to have one superintendent with supreme control over both penitentiaries. Any enterprise can be managed better by one than many heads, between whom differences are likely to arise, not unattended with jealousies and bickerings, and at the same time one superintendent would insure uniformity in management, conduct and discipline.

Again, the State is not in a condition financially to incur the additional expense of double superintendent's pay. Where there is but one superintendent there can be no excuse for a neglect of duty nor evading or shifting responsibilities.

Respectfully submitted,

JONES,
KLEBERG,
Senate Committee.
HARRY HAYNES,
House Committee.

Senator Traylor offered the following resolution:

Resolved, That a committee of three Senators be appointed by the President of the Senate, to confer with the owners of the granite mountain, in Burnet county, from which the contractors for building the Capitol are now getting granite, and ascertain if said property can be bought for the State, and, if so, at what price.

Adopted, and

The President appointed on this committee Senators Traylor, Pfeuffer and Johnson.

Senator Kleberg introduced the following resolution and had it referred to Committee on State Affairs:

Resolved, That the Nineteenth Legislature of the State of Texas stand adjourned sine die at 12 o'clock m., on Monday, the seventeenth of March, 1885.

By Senator Glasscock:

"An act for the relief of Anna B. Smith, assignee and heir of Rufus R. Smith."

Referred to Committee on Private Land Claims.

By Senator Traylor:

"An act to provide for the publication and binding of one thousand copies of the Revised Statutes of the State of Texas, and to make an appropriation therefor."

Referred to the Committee on Finance.

Senator Jones entered a motion to reconsider the vote by which the minority report on Senate bill No. 153 was on yesterday adopted.

The hour having arrived, the Senate went into committee of the whole on the consideration of Senate bill No. 195, the substitute for Senate bill No. 7. (Senator Pope in the chair.)

IN SENATE.

(The President in the chair.)

Senator Pope, chairman of the committee of the whole, reported progress, and asked leave to sit again to-morrow after morning call.

The report was adopted.

A message was received from the Governor.

Senator Houston of Bexar moved that the Senate grant the request of the House to return Senate bill No. 79, "An act to require the Comptroller of Public Accounts, etc., to employ female clerks." etc.

Senator Davis raised the point of order that the bill had gone beyond the jurisdiction of the Senate, and therefore the Senate cannot in anywise act upon the bill.

Pending discussion on the point of order,

The following message was received from the House of Representatives:

HOUSE OF REPRESENTATIVES,
AUSTIN, February 17, 1885.

Hon. Barnett Gibbs, President of the Senate:

By mistake of the Chief Clerk, the Senate was this morning informed that the House had ordered the return of Senate bill No. 79. The House simply entered a motion to reconsider the vote by which said bill was passed, and to enter that motion on the journal, no final disposition having been made of said motion.

A. D. SADLER, Chief Clerk.

The motion of Senator Houston of Bexar to grant the request of the House was withdrawn.

Senator Houston of Bexar moved that the Secretary be instructed to report the bill back to the House with the information that the Senate had refused to concur in the House amendments.

Senator Davis arose to a point of order, but before stating his point of order,

The President ruled the motion of Senator Houston out of order, whereupon

Senator Houston appealed from the decision of the President.

Pending this appeal.

Senator Pope moved to adjourn till ten o'clock to-morrow morning.

Adopted, and the Senate adjourned.

THIRTY-FIRST DAY.

SENATE CHAMBER. }
AUSTIN, February 18, 1885. }

Senate met pursuant to adjournment.

Lieutenant-Governor Gibbs in the chair.

Roll called.

Quorum present.

Prayer by the House Chaplain, Dr. Poindexter.

On motion of Senator Terrell,

The reading of the journal of yesterday was dispensed with.

On motion of Senator Evans,

Senator Perry was excused indefinitely, on account of sickness.

On motion of Senator Kleberg,

Senator Jones was excused till to-morrow.

PETITIONS AND MEMORIALS.

By Senator Shannon:

Memorial of citizens of Calvert, Texas, praying for an amendment to their city charter.

Referred to Committee on State Affairs.

By Senator Houston of Wheeler:

Petition of the citizens of Clay and Montague counties, protesting against leasing of school lands.

Petition of citizens of Clay county, protesting against the leasing of the school lands.

Petition of the county officers and citizens of Wilbarger county, protesting against the lease law.

The three petitions referred to Committee on Public Lands.

By Senator Calhoun:

A memorial from citizens of Taylor county on prohibition.

Referred to Committee on Constitutional Amendments.

REPORTS OF STANDING COMMITTEES.

By Senator Jerdone:

COMMITTEE ROOM,
AUSTIN, February 17, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Public Health, to whom was referred Senate bill No. 128, entitled "An act to establish a State Board of Medical Examiners, and to regulate the practice of medicine and surgery in the State of Texas, also defining the duties of such board," have carefully examined the same, and instruct me to report the same back to the Senate with the accompanying amendments, with the recommendation that it do pass as amended.

All of which is respectfully submitted.

JERDONE, Chairman.

COMMITTEE AMENDMENTS.

1. Strike out after line 4 in section 4, down to and including the word "act," in line 9, and insert "shall be styled and shall transact business under and by the name of 'State Board of Medical Examiners for Texas,' and shall have and use a seal with a star of five points, and the words around the margin, 'State Board of Medical Examiners for Texas.'"
2. Strike out the words "unprofessional or," in line 7, section 9.
3. Strike out all of section 10.
4. Strike out the word "satisfactory," in lines 5 and 6, section 12, and add to the section, "the affidavits of two credible persons or a certified copy of any public record of the fact shall be sufficient evidence to require the secretary to register an applicant under this section, and the same may be presented without the personal presence of the applicant."
5. In section 14 strike out the words "whose name shall not be found in the official register," and insert the words "who has not complied with the provisions of this act."
6. In section 15, after the word "court" in line 7, insert the words "or jury trying the case," and strike out the remainder of the section.
7. In section 17 strike out the words "bank to the credit of the State Board of Medical Examiners," and insert the words "State Treasury, and the State Treasurer shall preserve the same and keep an account thereof, and pay the same out as hereinafter provided."
8. In section 19, line 3, strike out the word "unprofessional."
9. In section 20, line 10, strike out the word "bank" and insert "State Treasurer."
10. Strike out section 25.

COMMITTEE ROOM,
AUSTIN, February 17, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Public Health to whom was referred Senate bill No. 154, entitled "An act to regulate the practice of medicine and surgery, and to punish persons for malpractice," have carefully examined the same, and instruct me to report the same back to the Senate with the recommendation that it lie on the table, for the reason that your committee have reported upon a bill relating to the same subject.

All of which is respectfully submitted.

JERDONE, Chairman.